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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports due in 1994

CAPE VERDE

[30 November 1999]

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General considerations

1. Cape Verde is a small island country in the Atlantic Ocean off the West African coast of Senegal and Mauritania. It was a Portuguese colony until 1975. According to 1992 statistical data,[1] it has a land area of 4,033 km^2 and a population of about 389,000 inhabitants.

The country is part of the Sahelian zone and has the characteristics of that part of the African continent, with an arid and semi-arid climate and devastating droughts. It has only 426 km^2 of arable land and rain is very sparse (about 200 mm/year). Prolonged periods of drought regularly affect the country, jeopardizing its survival and further accentuating the ongoing process of desertification. The lack of permanent watercourses is one of the country's major problems.

2. The economy is based on the provision of services, which accounted for 60 per cent of GDP in the 1960s, while agriculture and fishing employed about 24 per cent of the active population, but accounted for only 13 per cent of GDP.[2] Because of the above-mentioned conditions, an archaic structure and outdated technology, however, the country cannot produce what it needs for subsistence and has to import staple commodities and ordinary consumer goods. Even during what are regarded as good farming years, production does not cover 60 per cent of the country's needs.[3]

3. About 14 per cent of the population is considered extremely poor and 30 per cent is poor, with a larger concentration of this population sector in rural areas, where 70 per cent of the poor and 85 per cent of the extremely poor live.[4] The unemployment rate is quite high and stood at 23 per cent in 1990, according to an ILO study.[5] The system of production cannot provide employment for a population which is growing by 2.7 per cent each year. Unemployment primarily affects women and young people, with disturbing levels in urban areas.[6] The majority of the population lives in substandard dwellings. The poor have large families and very little living space, without sanitation and electricity. With the rural exodus and as a result of the slums which have sprung up near towns and in which health conditions are extremely critical, the problem is growing worse.

4. On account of major economic constraints, part of the Cape Verdean population emigrates and it is estimated that nearly as twice as many Cape Verdeans live outside the country as in the islands. The adverse social consequences of this situation are enormous, but they are greatly mitigated by emigrants' remittances and by official development assistance, which keeps increasing. From 1992 to 1995, official development assistance rose from C.V. Esc 8,584 million to C.V. Esc 11,069 million and total investment amounted to C.V. Esc 10,427 million during the same period.[7]

5. The living conditions of much of the population are precarious. For example, only 14.8 per cent of Cape Verdean families have access to running water and only 20 per cent have a bathroom with a toilet. When these data are broken down by inhabited area, it may be seen that, in rural areas, where the majority of the population lives, these percentages drop to 2.9 per cent for running water and 6.1 per cent for access to a proper bathroom.[8]

6. The country's overall socio-economic problems are also reflected in the nutritional situation, as shown by the large calorie and protein deficit in 16.2 per cent of children under age five.[9] Diseases resulting from such living conditions carry considerable weight in cases of ill health. Infectious and parasitical diseases are thus the main causes of general mortality (1.7 per thousand in 1993) and infant mortality (17.5 per thousand in 1993).[10]

7. Family structure is complex and is characterized by a large number of single people and de facto unions. It should be pointed out that 40 per cent of women with more than one child have at least two different "fathers of their children"[11] and that nearly 80 per cent of children are born out of wedlock.[12] Women, who often support their families, have fewer skills and lower wages than men in identical situations.[13] This is the context in which a population with a very young component, i.e. 55 per cent of young people under age 20,[14] lives.

8. Because of various factors, however, such as adequate social welfare coverage, some health indicators are acceptable, particularly when compared with those in the region. General mortality (9.1 per cent in 1995), infant mortality (45.1 per cent in 1995) and under-five mortality (59.8 per thousand), as well as coverage for children under age one (64.2 per cent), are considered positive.[15] Educational indicators are also satisfactory, since the literacy rate stands at 80 per cent, which is quite good.[16] The coverage rate of pre-school education in 1995 was about 40 per cent of children aged between four and six. In basic education (six-year cycle), there was a gross enrolment rate of 119 per cent and a net enrolment rate of 95 per cent in the same year. With regard to secondary education in 1995, gross and net enrolment rates stood at 32.9 per cent and 29.6 per cent, respectively.[17]

9. The data relating to education reflect the cultural homogeneity of a physically and culturally mixed population, which is the result of the mixing of African peoples and peoples of various cultures, especially the Portuguese.

10. These general considerations may help provide a better picture of progress in the implementation of the principles embodied in the Convention on the Rights of the Child.

I. GENERAL MEASURES OF IMPLEMENTATION

A. General framework

11. Since national independence, the successive Governments of Cape Verde have attached great importance to children. The situation of children has been a matter of constant concern not only to the State, but also to institutions, political figures and civil society. One of Cape Verde's greatest poets, Jorge Barbosa, denounced the situation in no uncertain terms during the colonial period. Amilcar Cabral's famous saying that "Children are the flowers of our revolution" reflects the country's concern about the situation of children.

12. Political independence brought the situation of children under institutional control, even though great efforts still have to be made in this regard. On the one hand, children enable Cape Verdeans to see themselves as in a mirror and to show and renew their emotions. On the other, they reflect the great problems in responding adequately, in a very limited production

context to the demands of the large majority of young people, who are consumers by nature. This institutional control is not merely symbolic, but, in practical terms, represents a break with the colonial approach, which was to regard social problems as matters for the police.

13. Twenty-two years after national independence, the institutional model has changed a great deal and progress has been made in promoting the rights of children in various areas. New problems always arise, however, and most of the old ones crop up again with even greater intensity; the obstacles to be overcome then become enormous.

14. Although there is a great deal of space for creativity and rationalization, constraints are the result of material and human difficulties. Part of this space might be occupied by actors who are trying, through organizations of civil society, to establish the solidarity that has always been part of the Cape Verdean people's traditions.

15. As stated above, efforts have been made over the years to give institutional shape to the Cape Verdean people's way of life. In legislative and social policy terms, great strides were made and, generally speaking, they led to the implementation of the principles embodied in the Convention on the Rights of the Child. Cape Verde formally acceded to the Convention in 1991 (adoption of Act No. 29/IV/91 of 30 December) (Official Gazette No. 53, supplement No. 4). The progress made on the measures adopted thus far, in terms of the promotion and protection of the rights of the child, remains to be measured, however, and it must be determined whether this trend continued following ratification.

16. With regard to the main measures for the advancement and protection of children prior to 1991 and taking 1975 as a starting point, it may be stated that, in institutional terms, the coherent structure that has been built reflects the various stages in the country's political history. Although a number of political measures in favour of children were adopted shortly after independence, the first Constitution (Lope, 5 July 1975, Official Gazette No. 1) did not deal specifically with the problem.[18] Like many other legal questions, those relating to the child continued to be dealt with by the colonial legislation that remained in force in Cape Verde after political independence. In constitutional terms, this was a major step forward that reflected the progress made during the 15 years between the first and last versions of the Constitution.

17. The 1980 Constitution did not make much headway on the problem of children.[19] Over the years, however, a number of infra-constitutional measures filled the gaps that existed and a large number of institutions were established or recognized to back up the policies being formulated.

18. In addition to these measures, mention must be made of the Juvenile Code and all the other texts which amended the Code of Criminal Procedure, the Civil Code and the Penal Code as a means of meeting the needs of families and minors. In 1976, prior to the enactment of the Juvenile Code, legislation was adopted that eliminated any distinction between legitimate and illegitimate children (Decree-Law No. 84/76 of 25 September) and introduced machinery to facilitate the declaration of paternity and maternity through affiliation proceedings (Decree-Law No. 57/75 of 6 December). The legislation on children which was drafted prior to the adoption of the Convention is based on principles which were embodied in the Convention a few years later.

19. It should be noted that the Convention does not merely validate these principles and give them greater dignity. The principles were amended extensively; children were no longer only persons to be protected and were now regarded as persons with rights.

20. With regard to institutions, particular attention is drawn to the work of the Cape Verdean Juvenile Institute (ICM), which was set up in 1982 and deals with juvenile policy (Decree No. 90/82 of 25 September). Other important organizations of civil society began working in this field, such as Caritas Cape Verde, the Cape Verde Red Cross and the Cape Verde Solidarity Institute (ICS). These institutions have played a very important role - and some continue to do so - in the implementation of proposals relating to the protection of children in the areas of education, culture and solidarity, particularly by helping State and government health, education, justice and social welfare departments.

21. In view of the importance of child-related issues, Cape Verde was present at the World Summit for Children in 1990 and, through ICM, at the OAU International Conference on Assistance to African Children, held in Dakar from 25 to 27 November 1992. During these conferences, various important topics were discussed, including children in particularly difficult situations and child victims of armed conflict, the aims of child vaccination, access to oral dehydration, iodine and vitamin A deficiencies and breastfeeding on an exclusive basis. Important recommendations to the participating countries were drafted including those relating to the mobilization of resources at the national, regional and international levels, the formulation of plans of action up to 2000 in areas such as health, education, violence against children, drinking water supplies and the role of women, the ratification of the African Charter of the Rights and Welfare of the Child and the formulation of national children's covenants. Meetings were also held with potential donors who were prepared to finance projects and programmes.

22. Cape Verde's participation in these conferences and other meetings on children played a decisive role in energizing and strengthening the institutional structure for the protection of the rights of the child, i.e. ICM in particular.

B. Measures to harmonize legislation and policy with the provisions of the Convention

23. The ratification of the Convention took place at the beginning of the country's process of democratization, which gave fresh impetus to child protection policies. The current Constitution, which was adopted in 1992 (Constitutional Act No. 1/IV/92 of 25 September), attaches importance to child-related problems and gives them dignity, while embodying important principles that were already contained in other basic texts relating to family law.[20] The necessary institutional changes were also made and efforts focused on the implementation of programmes in important child-related sectors, such as education. The ratification of the Convention was followed by the adoption of many measures which are described below.

1. Legislation

24. The adoption of the 1992 Constitution was probably the most important legislative measure. International agreements such as the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the African Charter on Human and

Peoples' Rights were approved or ratified, as were other international instruments for the protection of children. Cape Verde also acceded to the African Charter on the Rights and Welfare of the Child (National Assembly resolution No. 32/IV/93 of 19 July). In 1997, new legislation (Legislative Decree No. 12-C/97 of 30 June) amended the 1981 Family Code extensively and included various legal principles abrogated by the old Code.

25. All these changes were incorporated in the Civil Code, which now also includes all the fundamental rights of the child which were provided for in the Juvenile Code and are also contained in the Convention on the Rights of the Child. Specific, but very important changes were made even in the Civil Code, thus contributing to the strengthening of the legal status of children particularly with regard to adoption, alimony, property administration, the exercise of parental authority, guardianship, inheritance, de facto union and rules of conflict.

26. Criminal legislation (Legislative Decree No. 4/97 of 28 April) which lists certain types of conduct that violate the rights of the child and characterizes them as criminal offences was also adopted in 1997. It will be referred to in detail below.

27. Very important legislation such as the Penal Code, the new Code of Criminal Procedure and a new act on the enforcement of custodial sentences, draft texts of which are being discussed by civil society,[21] are to be adopted very soon.

2. Cape Verdean Juvenile Institute

28. The objectives of ICM, which was established in 1982, are to "promote and preserve the well-being of minors and protect them against situations which might endanger their full and harmonious development" (art. 1). Following the ratification of the Convention, ICM began playing an active role in the promotion of the rights of Cape Verdean children. In recognition of its work ICM received the UNICEF "Children and Their Rights" prize in 1996.

29. Despite the importance attached to the topic of the rights of the child, ICM does have some problems, both from the institutional point of view and from the point of view of human, material and financial resources. The greatest obstacles which urgently need to be overcome are its inadequate status, its inability to employ the officials it trains and the country's economic problems.

30. ICM's area of activity has expanded and now consists of preventive action and assistance activities.

Prevention

31. ICM was established, inter alia, to prepare field studies and reports on problems which may particularly affect children, especially child workers, street children and child prostitutes. From what is, of course, a different point of view, ICM has already carried out a study of the traditional system of foster care for orphans.[22] The activities carried out by ICM include the dissemination, in the press, of information on the Convention and legislation on the rights of the child, the promotion of discussions on the question of children and adolescents and the publication of a comic strip on the Convention for children and young people. ICM still intends

to prepare and hold the Children's Parliament with 900 children in order to promote basic aspects of the Convention. In addition to these activities, awareness-raising campaigns have been launched to promote specific issues, such as the social integration of disabled children, the right of children to recognition by their parents and action to combat violence against children.

Assistance

32. In order to carry out its assistance activities, ICM has a youth centre, four social centres and nine nursery schools and it supervises seven other schools. Through these facilities and in cooperation with other bodies, ICM provides social, educational and psychological assistance for needy children and children in particularly difficult situations; in this context, it implemented eight programmes in 1996 involving over 3,500 children of both sexes. The programme which involved the largest number of children was entitled "assistance in court", followed by the programmes on the development of children's communities (1,193) and the emergence of children (324).[23] Social welfare and social protection are two components of ICM's assistance activities which depend on coordination with other bodies and whose constraints must be analysed so that improvements may be made. ICM took part in assistance for disabled children through the Ministry of Health community rehabilitation programme and contributed to the formulation of the integrated special education programme being implemented by the Ministry of Education, Science and Culture.

3. Education

33. In the context of measures to modernize the system of education and in view of the wording of the text defining the basic principles of the national education system, as adopted in late 1990 (Act No. 103/III/90 of 29 December), changes were made in this sector, which takes account of practically all Cape Verdean children. The modernizing approach of the educational sector is coordinated with that of the protection of human rights.

34. Some elements which are worth singling out are the implementation of the "Education for family life" programme, the formulation of the "Integrated special education" programme and the institutionalization of School Games, which bring together children from teaching establishments throughout the country in the context of games and exchanges.

35. It should be noted that the reorganization of the educational system, which must cover all levels of instruction, is severely restricted. The most important restriction is financial, since it determines the use of physical space and greatly limits the distribution of teaching materials and the adaptation and pedagogical support of teachers as a result of the consequences of the problematic socio-economic situation.

4. Youth

36. As far as young people are concerned, community activities are being encouraged and the Office of the Secretary of State for Youth and Sports was established in 1990 to formulate, implement, monitor, evaluate and follow up youth policy.

5. Health

37. The health policy is designed to give priority to prevention and better health-care access. Attention is drawn to mother and child protection activities, especially vaccinations.

6. General policy

38. The holding in July 1995 of the Meeting on Social Policy for Children and Adolescents, which was attended by the country's main authorities and which adopted a major national political and social declaration, showed how much importance is attached to the question of children by political and governmental bodies and by civil society. It was, however, not possible to give effect to all the recommendations formulated by the Meeting, particularly on the establishment of a coordinating committee for the policy on children and adolescents.

C. Mechanisms to coordinate and monitor the implementation of the Convention

39. Although a great deal of work on the well-being of children has been done by various departments, it is still necessary to improve specific coordination and monitoring mechanisms with a view to the proper implementation of the Convention. The Government is aware of these shortcomings and is making every effort to find more appropriate and effective solutions. According to a press release by the Prime Minister (No. 23/94 of 13 June), the Government set up a committee to carry out studies on the new legislation relating to minors. The dissemination of the principles and provisions of the Convention has always been part of ICM's work.

II. DEFINITION OF THE CHILD

40. The Convention defines the child as any human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier (art. 1).

A. Majority

41. The Convention adopts the general approach that the child attains the age of majority at 18 years, but also recognizes that that age may be lowered if the States parties to the Convention so decide. In Cape Verde, the age of majority is set at 18 years, according to an a contrario interpretation of article 45 of the Juvenile Code,[24] as approved by Decree-Law No. 89/82 of 25 September. The same approach is taken in article 133 of the Civil Code. The legal approach is thus in keeping with the definition of the child contained in the Convention.

42. According to Cape Verdean law, children in general lack capacity to exercise rights (art. 5 of the Juvenile Code and art. 134 of the Civil Code). This lack of capacity is replaced by parental authority and, alternatively, by the delegation of parental authority to a legal institution or to a guardian for the management of assets (art. 137 of the Civil Code). These amendments were recently introduced in the Civil Code. The lack of capacity of minors ends when they have reached the age of majority or are fully emancipated by marriage and are thus capable of taking care of themselves and disposing of their assets (art. 137 of the Civil Code).

B. Legal capacity of minors

43. Although minors generally lack capacity to exercise rights, the law gives them capacity to perform acts commensurate with their intellectual, moral and social maturity. Children may thus personally and freely perform legal acts which correspond to their age, for which they enjoy capacity and which involve only minor expenditures or the disposal of minor assets (art. 135, para. 2 (a), of the Civil Code).

44. Minors may also practise any occupation or trade not prohibited by law, provided that they have attained the age set by labour legislation and perform all the necessary legal acts necessary to practise that occupation or trade (art. 135, para. 2 (c) and (d), of the Civil Code).

45. Minors may also perform any acts involving the management and disposal of assets they have acquired by means of their labour (industry, military, arts, liberal profession), whether or not they live with their parents (art. 135, para. 2 (b) of the Civil Code).

46. Legal acts performed by a minor may be invalidated (art. 36, para. 1 (a), and art. 140 of the Civil Code) by his legal representative when the case is brought before the courts within one year of the request for invalidation and prior to the minor's attainment of majority or his emancipation by marriage. A legal act may also be invalidated by the minor's legal representative within the above-mentioned time limit even if the minor has attained the age of majority or emancipation, when he is under a disability or disqualification (art. 136, para. 1 (a), and art. 140 of the Civil Code).

47. A minor may voluntarily request the invalidation of an act which he performed, provided that he institutes proceedings within one year of having attained majority or emancipation (art. 1 (b) of the Civil Code). However, he may not apply to have the act declared invalid if, at the time the act was performed, he acted fraudulently by passing himself off as having attained the age of majority or emancipation (art. 136, para. 3, of the Civil Code).

48. An application for a declaration of the invalidity of an act performed by a minor may also be filed by any heir within one year of the minor's death, but prior to the date of the deceased minor's attainment of majority or emancipation by marriage. Invalidity may be challenged either by the minor, after majority or emancipation, or by his legal representative in the case of an act he was entitled to perform in his capacity as legal representative (art. 136, para. 2, of the Civil Code).

49. Minors may institute legal proceedings only through their representatives, except in the case of acts they may personally and freely perform (art. 10 of the Code of Civil Procedure). Criminal proceedings must be instituted by the legal representative in the event of loss or injury to the minor (art. 12 of the Code of Criminal Procedure).

C. Legal counselling without parental consent

50. On the basis of the preceding section, minors may seek legal counselling, if they are capable of doing so, from lawyers or public legal aid and counselling institutions. In matters outside the scope of their capacity to act, a legal representative must act on their behalf. Minors may apply to the Public Prosecutor's Office, which, by law must defend their interests.

D. Medical counselling without parental consent

51. Since a minor has legal capacity for certain acts which are commensurate with his intellectual maturity, making him undergo a medical examination requires his consent, provided that it has been proved that he is sufficiently mature to understand the implications of the examination. In such cases, the consent of the minor's legal representative is not enough, since the minor's consent is also necessary.

E. End of compulsory education

52. Children go to primary school at age six. Primary school is universal and obligatory and the obligation ends when the child has reached the age of 16.

F. Employment

53. The minimum age for the conclusion of a full-time or part-time employment contract is 14 years. Minors' employment contracts are governed by a specific regime, which will be analysed below (paras. 185 and 186) (art. 5 of Decree-Law No. 62/87 of 30 June).

Hazardous work

54. Article 160 of the Employment Contract Act provides that the Government determines which activities are prohibited to minors in order to protect them physically, morally and intellectually. Thus far, no activity has been prohibited to minors, as this is an area which is in urgent need of regulation and which is also part of the Government's programme. As will be shown in section VIII.B. below (paras. 185 and 186), national legislation offers a number of solutions as a means of preventing employment at too early an age and in difficult conditions, thereby protecting the physical and mental integrity of minors and guaranteeing their full and harmonious development.

G. Sexual consent

55. Sexual relations with a minor under age 16 are regarded as unlawful, since a minor is incapable of consenting to such acts. Cape Verdean law does not take account of the consent given by a minor under age 16. Accordingly, any man who has sexual relations with a girl under age 16 commits rape. Relations with a boy under age 16 are also punishable by up to one year's imprisonment. There are no statistics on the pregnancy rate of minors under age 16. A UNICEF study carried out in 1994 simply showed an under-18 pregnancy rate of 18 per cent.

H. Marriage

56. In general, minors may not marry. However, the law allows them to do so in exceptional circumstances. The courts authorize a minor under age 16 to marry, based on a substantiated request by him or his legal representative. The marriage of a minor under age 18 is invalid.

I. Voluntary enlistment in the armed forces

57. In order to perform military service as a volunteer, a minor must be at least 17 years old and have the authorization of his parents or his legal representative. Military service is compulsory for all men aged between 18 and 35 years.

J. Giving testimony or making a statement in court

58. In criminal proceedings, minors under age 7 cannot be witnesses, but may be heard as declarants, provided that they have the natural ability to make a statement (art. 216 of the Code of Criminal Procedure). In civil proceedings, minors under age 7 lack legal capacity to give testimony (art. 617 of the Code of Civil Procedure).

K. Criminal responsibility

59. Criminal responsibility on the grounds of age begins at age 16.

L. Restriction or deprivation of liberty

60. Minors under age 16 who commit any act characterized by law as a crime or an offence are subject to the following measures of protection, assistance and education:

(a) Arrest;

(b) Handing over to the parents or guardian;

(c) Requirement that they should do certain things or behave in a particular way;

(d) Educational assistance;

(e) Placement in an apprenticeship or a job in an official institution or social welfare organization;

(f) Placement in an institution for the protection of minors.

61. In practice, such measures have not always been applied[25] and that is the result of paralysis in the operation of the competent body, the Juvenile Protection Committee, [26]the lack of appropriate institutions for the implementation of measures such as those referred to in subparagraphs (e) and (f) above; the lack of institutional conditions in the courts[27] and in the police department to speed up procedures (the backlog of cases which are regarded as more

urgent by the law and which take up practically all of the judges' and prosecutors' time and energy; and the quantitative and qualitative shortage of human resources) and failure by parents or other legal representatives of the child, society and competent organizations and bodies to report cases in which such measures are applicable.

62. Minors on trial for the commission of an offence may not be sentenced to more than eight years' imprisonment (arts. 108 and 55/5 of the Penal Code). Criminal law provides that minors with a criminal record may serve their sentence in a youth prison or in a rehabilitation institution, but, in practical terms, they cannot do so because infrastructure of this kind is lacking. All convicted minors thus serve their sentences in ordinary establishments, but they are kept separate from other offenders, although this is not always possible because of the shortage of space in such establishments. Criminal law also provides for the possibility of granting conditional release to minors who have been found guilty and sentenced to a term of imprisonment, provided that they are at least 25 years old and have proven that they are qualified, even if they have not served half of their prison term.

M. Consumption of alcohol

63. The prohibition on the consumption of alcohol by minors was governed by Ministerial Decree No. 4544 of 3 April 1954. According to this Decree, minors under age 16 who were not accompanied by a parent, a guardian or other family member could enter bars or places where alcoholic beverages were sold only to run an errand or give someone a message. This prohibition was, however, not respected. In view of the harm that alcohol can do to children, the National Assembly adopted an act prohibiting the sale, offer, supply and consumption of alcoholic beverages to minors under age 18 (Act No. 27/V/97 of 23 June).

64. This act entered into force on 1 October 1997. Prior to its adoption, the Ministry of Justice and Internal Administration waged a major campaign to raise the awareness of civil society. Two implementing decrees were published on the same date: Ministerial Decree No. 54/97 of 9 September, which defines the types and dimensions of signs which indicate the prohibition and which are displayed by the owners of establishments where alcoholic beverages are sold; and Regulatory Decree No. 13/97 of 22 September, which determines the conditions for the admission to recreational and cultural entertainment facilities of minors aged 16 and over and their stay until midnight. As a result of the entry into force of this legislation and strict checks by the authorities, minors have stopped frequenting establishments and entertainment facilities where alcoholic beverages are served. The Government has instructed the competent authorities to implement permanent monitoring measures to achieve the objectives set. It must be stressed that young people, civil society, parents and education officials, have all obeyed the law.

65. The Government included an amount in the 1998 State budget which is intended to finance activities to raise awareness of and prevent minors under age 18 from consuming alcoholic beverages and going to places where such beverages are served.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

66. Since Cape Verde's accession to the status of an independent and sovereign State, the principle of the equality of all citizens before the law has been considered an inviolable right. All laws which, directly or indirectly, created situations of inequality, especially on the basis of sex or of birth in and out of wedlock, have been repealed.

67. Taking the same approach as the previous Constitution, the current Constitution sets forth the principle of equality (art. 22) in the section relating to the rights and duties of citizens, stating that "Every citizen shall be equal in social dignity and shall be equal before the law. No one shall have privilege or benefit or be injured, deprived of any right or exempted from any duty on account of race, sex, ascendancy, language, origin, religion, social and economic conditions or political or ideological convictions". To ensure that this principle is respected, the Constitution requires the State "to undertake to eliminate restrictions which are conducive to discrimination against women and to ensure the protection of their rights and those of children" (art. 85, para. 2).

68. The Constitution also stipulates that the family and society guarantee the protection of the child against any form of discrimination or oppression (art. 87), and prohibits discrimination against children born out of wedlock and the use of any discriminatory designation concerning affiliation (art. 44). No discrimination is practised in public or private institutions. However, there is a need for studies at the family level in order to verify whether this principle is observed by parents when dealing with children, especially girls. There are in fact indications that, in some families, particularly those in rural areas which are experiencing economic difficulties, girls are taken out of school and assigned household tasks such as cooking, fetching water and pasturing animals. A general, widely held view is that the performance of household tasks is a necessary skill for girls to acquire and that such tasks are womens' work.

B. Best interests of the child (art. 3)

69. The principle of the best interests of the child, which will be analysed later, was included in national legislation even before the Convention was ratified, but it was given greater force in the Cape Verdean legal system with the ratification of the Convention in 1991, the Constitution in 1992 and the African Charter on the Rights and Welfare of the Child in 1993. The rules and principles contained in the Convention and the Charter take precedence over all internal legislative and statutory instruments (art. 114, para. 4 of the Constitution). Consequently, any ordinary legal provision which is contrary to the rules and principles of the above-mentioned instruments is illegal and should not be applied by the courts. In addition, all legislation concerning children should be interpreted in the light of the principles contained in the Charter and the Convention.

70. As stated above, although the principle of the best interests of the child was not formally and explicitly introduced into Cape Verdean legislation until the entry into force of the Constitution, the Conventions, and the Charter, it had already been referred to in certain areas relating to children. In 1981, the Family Code stipulated that parental authority should be

exercised in the best interests of the children (art. 60, para. 2), that their assets must be disposed of only in their best interests and when manifestly necessary or desirable (art. 61, para. 2) and that a divorce could not be granted unless "the best interests of the child were fully protected" (art. 32, para. 2).

71. Adoption, which is possible only for minors, is permitted only in the interests of the adoptee and of children in general. Since 1991, the year when the Convention entered into force, all decisions relating to children adopted by public or private institutions have had to give priority to the best interests of the child.

72. Despite the lack of statistics in this area, it may be stated that there is little reference to the best interests of the child in court decisions; however, even when not cited explicitly, the best interests of the child underlie or are implicit in such decisions.

C. Right to life, survival and development (art. 6)

73. Life and physical and moral integrity are inviolable in Cape Verde (art. 21, para. 1, of the Constitution). The right to health is guaranteed to all citizens regardless of socio-economic situation (art. 27 of the Constitution and art. 3 of the Basic Health Act (Act No. 62/111/89 of 30 December 1989)). In addition, the section of the Juvenile Code relating to special rights for children provides for the right to healthy growth and development. This right is also provided for in articles 119, paragraph 1 (c), and 122, of the Civil Code.

74. Promotive and preventive health care is free of charge (art. 34 of the Constitution). Vaccination coverage for children under one year of age is currently 64.2 per cent, according to 1995 statistics. Care is also free for pregnant women, children aged two and younger and vulnerable people suffering from disease.[28]

75. Despite the country's economic difficulties, many steps have been taken to improve the quality and efficiency of health services. One indicator reflecting these efforts is the progressive reduction of the infant mortality rate. More detailed information is found in chapter VI on basic health and welfare.

D. Respect for the views of the child

76. As the Convention and the Charter take precedence over internal legislation, the principle that children's views should be sought and that they have the natural capacity to be heard in any legal or administrative proceedings affecting them must be respected. Consequently, although this right is absent from the procedural rules, it will have to be included in any regulations concerning parental authority when a child shows himself to be capable of communicating.

77. With regard to adoption, the law requires the consent of the adoptee when he or she is over 12 years of age and also sets forth the obligation to hear the adopter's children when they are over 12 years of age, except when it would be difficult to do so (art. 82, para. 2, Decree No. 17/83 of 2 April). If the adoptee is under the care of an educational or welfare institution, the institution must be heard by the court (art. 1931, No. 2 of the Civil Code).

E. Copyright

78. Children are entitled to benefit from patrimonial and personal rights deriving from their intellectual creations and are consequently the sole holders thereof (Act No. 101/V/90 of 29 December). When children are incapable of exercising patrimonial rights, they are exercised by their legal representatives and personal rights are exercised by children as soon as they have the capacity to understand them.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality

1. Name

79. The Civil Code establishes the right of everyone to use his or her full or abbreviated name and to oppose anyone who makes illegal use of that name for identification or any other purpose (art. 70, para. 1). The right to a name was embodied in the Juvenile Code (art. 10) as a special right which a child can use freely and whose illegal use by other persons he can oppose. This approach is reflected in the amendments to articles 119, paragraph 1 (a), and 120.

80. According to the Civil Register Code[29] a child must be recognized within 30 days following his birth. This legal requirement is not observed by parents and, according to recent studies, many children are not recognized. A study entitled "Health of children under five in Cape Verde" showed that 80 per cent of children under five years of age have not been recognized and that this percentage is higher among modest families. The reasons mentioned were lack of money, absence of one of the parents and negligence.

81. To deal with this situation, the Government, through the competent service of the Ministry of Justice and Internal Administration and in cooperation with ICM, conducted a public awareness-raising campaign aimed at the recognition of children. Last year, for example, parents who intended to recognize their children were exempted from the payment of taxes and fines (Decree-Law 10/97 of 10 February). The results were positive: at the end of 1998, 20,595 children had been recognized. As for the child's right under the Convention to know his or her parents, the birth certificate must bear the name of the father and the mother.

82. When the name of the father or the mother is not mentioned, the Civil Register official is under an obligation to inquire about the identity of the parent not present. If there has been no official investigation and if paternity or maternity has not been established, when the children acquire legal capacity, their legal representative or recognized parent can institute paternity or maternity proceedings (art. 54 of the Family Code). It is presumed that the father of a child born in wedlock is its mother's husband (art. 50), unless this presumption is refuted by the mother (art. 50).

83. With the recent changes to the Family Code and since the delegation of competence for official investigations to the Civil Register services, which has hitherto been the case, has proved impractical owing to the shortage of human resources and means of exercising this authority effectively, the official registering the birth is responsible for extracting a copy of the portion of

the birth certificate recognizing the child and submitting it to the Public Prosecutor's Office so that formal paternity or maternity proceedings may be instituted (arts. 1792 and 1793 of the Civil Code). The child's name generally consists of his or her first name and the parents' surnames. However, the law also permits the use of one of the parent's surnames. The child's surname may be changed only in the event of subsequent recognition, adoption or marriage.

2. Nationality

84. In accordance with the Nationality Act (Act No. 80/III/90 of 29 June), the following are considered to be Cape Verdean citizens:

(a) Persons born in Cape Verde to a father or a mother of Cape Verdean nationality;

(b) Persons born abroad to a father or a mother of Cape Verdean nationality in service with the State of Cape Verde;

(c) Persons born in Cape Verde who have no other nationality;

(d) Persons born in Cape Verde to a father or a mother who is stateless or of unknown nationality.

The child of a father or a mother who has acquired Cape Verdean nationality may acquire Cape Verdean nationality. Cape Verdean nationality may be also acquired by a foreign child or a child of unknown nationality adopted by a Cape Verdean. Stateless children adopted by a Cape Verdean automatically acquire Cape Verdean nationality.

B. Preservation of identity (art. 8)

85. The components of Cape Verdean identity are the name and nationality, which may not be arbitrarily changed. It is possible to change a child's name only in cases of recognition or adoption. Apart from the above-mentioned cases, there can be no changes to the child's name unless the best interests of the child so require. A child's nationality may be changed at the behest of his or her legal representatives. However, a child who has lost Cape Verdean nationality through a declaration made during his or her period of legal incapacity may reacquire it two years after the end of the period of incapacity.

C. Freedom of expression and information (arts. 13 and 17)

86. The Constitution sets forth freedom of expression and information as a fundamental freedom (art. 47), stating that all persons, including children, have freedom to express and to disseminate their ideas through words, images or any other means and that all persons have freedom to inform and be informed and to seek and disseminate information and ideas in any form, without limitations, discrimination or impediment. The right to be informed is interpreted as being the right to be genuinely informed, either by the media or by government bodies. These freedoms cannot be subject to censorship and are limited only by the right of every citizen to honour, reputation, privacy and family life and by the need to protect young people and children.

87. The Constitution (art. 46) guarantees freedom of the press and the State ensures the freedom and independence of the media in relation to political and economic power, the non-subjection of the media to censorship, the independence of journalists vis-à-vis the Government, the administration and other public bodies, and the existence and operation of a public radio and television service.

88. The press and the media are governed by a set of ordinary laws that replicate the principles embodied in the Constitution of the Republic. The Advertising Code (art. 19) contains specific rules governing advertising aimed at children, which must take their psychological vulnerability into account and children may not appear in commercials where there is a connection between them and the product being advertised.

89. Advertising for alcoholic beverages and tobacco is prohibited (Advertising Code, art. 21). Any advertising which is racially, sexually, politically or religiously discriminatory or offensive or is contrary to public morals and decency is also prohibited (art. 8).

D. Freedom of thought, conscience and religion (art. 14)

90. The Constitution (art. 27) guarantees freedom of thought, conscience and religion. All citizens have the right to practise a religion or not, to have a religious conviction of their own choice, freely to participate in the act of worship and freely to express their faith and to disseminate their doctrine or conviction, provided that they respect the rights and well-being of others. The State is secular and non-denominational. Churches and other denominations and religious communities are separate from the State and may freely disseminate their faith and expand their community. Religious instruction is permitted. It is for the child's representative to choose the child's religious instruction until such time as the child has attained the necessary intellectual maturity (art. 1825 of the Civil Code). The right to conscientious objection is also guaranteed by the Constitution.

E. Freedom of association and of peaceful assembly (art. 15)

91. Freedom of association and freedom of assembly are also fundamental freedoms explicitly provided for in the Constitution (arts. 51 and 52). Although the legal recognition of associations is the Government's prerogative, they may be established without any authorization. However, the framework-law governing the establishment of associations (Act No. 28/II/87 of 24 October) stipulates that associations are composed of adults. Public meetings and demonstrations may be held in any place, including public places, with no application for authorization. There are no restrictions on children's freedom of assembly and freedom to demonstrate peacefully.

F. Protection of privacy

92. The right of everyone to protection of privacy and family life is set forth in the Constitution (art. 38), previous to which it was protected by the1966 Civil Code, which establishes a duty to protect the privacy of others (art. 78). The extent of this protection is

defined according to a person's situation, which necessarily implies that it is less broad for younger children and in cases where it is the child's legal representative who is responsible for the intervention.

93. Fraudulently opening a letter or a paper belonging to another person is a crime punishable by imprisonment. However, such an act is not punishable if committed by parents or guardians of children who are still under their authority.

G. The right to honour and reputation

94. Children are entitled to protection of their honour and to consideration for their good name and reputation. The criminal legislation protects the honour of everyone, including children, by punishing acts undermining such rights (art. 407 of the Code of Criminal Procedure).

H. Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

95. Torture is punishable in Cape Verde by up to 12 years' imprisonment (Act No. 20/IV/91 of 30 June). The Constitution considers evidence obtained through torture, force or violation of physical and moral integrity to be null and void (art. 33, para. 6, of the Constitution).

96. The age of the person tortured, to the extent that it constitutes a circumstance indicating cruelty, inhumanity, violence or perversity on the part of the torturer, may aggravate the responsibility of the torturer. In 1992, Cape Verde ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Act No. 44/IV/92 of 9 April).

97. The Juvenile Code stated that children cannot be subjected to physical ill-treatment, lack of care or affection or mental cruelty endangering their physical, intellectual and emotional development and that all such acts are punishable. Amendments to the same effect were recently introduced into the Civil Code, specifically in articles 119, paragraph 1 (i) and (l), 128 and 130.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental authority (art. 5)

98. The Constitution recognizes the authority of parents, who are irreplaceable to their children, and guarantees them protection by the State and society in fulfilling their obligations (arts. 842 and 872). The 1981 Family Code made the parents jointly responsible for rearing and maintaining their minor children and gave each one the same duties and the same rights. This principle has been replicated in the new Civil Code (arts. 1817 et seq.), with a few justifiable limitations. Parental authority must be exercised in the best interests of the child.

99. If the parents do not live together and the exercise of parental authority proves difficult, the court determines which of the parents has custody of a minor child and which rights and duties are held by each parent. Parental authority must not be interfered with unless it constitutes

a serious danger to the child's physical, moral and psychological security and a judicial decision has been handed down to that effect. In cases of manifest failure to exercise parental authority, the court may divest one or both of the parents of authority over the children.

100. Parental authority ceases with a child's majority or emancipation, the death of the parents or the child, or adoption (art. 1848 of the Civil Code). Parental authority is shared with various social welfare agencies, especially those relating to child welfare and education, under conditions clearly defined by law.

B. Parental responsibilities (art. 18, paras. 1 and 2)

101. Parents must provide assistance to children born in or out of wedlock, especially with regard to maintenance, care and education (art. 86 of the Constitution). They are responsible for:

(a) Caring for and supervising their children and ensuring their maintenance, health, well-being and normal development;

(b) Ensuring and supervising their intellectual and cultural education and training by instilling in them a love for study and work;

(c) Providing them with proper moral and social instruction so that they may respect others, themselves and the community;

(d) Conscientiously managing their assets;

(e) Representing them, even from birth, in all legal acts requiring the parents' presence, except as prohibited by law;

(f) Authorizing them to perform acts which depend by law, on their consent;

(g) Deciding on their domicile for as long as they remain under the parents' control.

102. Abandonment of a child or neglect of his or her education, maintenance or care, or failure to fulfil or inadequate fulfilment of any other duty or obligation of parents may constitute a punishable act (art. 1826 of the Civil Code).

103. To enable parents to discharge their duties as effectively as possible, a few support measures are available to them. These include a family allowance for workers with dependent children under 14 years of age and a breastfeeding subsidy for women for the first six months following the birth of a child to a worker registered with the social security system. The family allowance may be extended to children over 14 and under 18 years of age, if they are successfully attending secondary school.

C. Separation from parents (art. 9)

104. When parents separate or divorce, they must come to an agreement concerning the custody of their minor children and the responsibilities each one of them will have. In the event

of divorce by mutual consent, such an agreement is absolutely necessary.[30] If the parents are unable to reach an agreement, the court will regulate the exercise of parental authority. The court's decision will be taken in accordance with the best interests of the child (art. 90/I of Decree No. 17/83 of 2 April). As stated earlier, parental authority will be suspended only in cases where the child's physical and moral integrity is endangered.

105. In such cases, the court appoints a guardian (arts. 1870 et seq. of the Civil Code), who will be responsible for the child and defend his or her interests. The suspension of parental authority over the children does not exempt the parents from their maintenance obligation (art. 1849, No. 2, of the Civil Code).

106. Family issues are not limited to legal aspects. They are particularly complex as the family environment has been seriously affected by emigration and also because family ties have been weakened owing to far-reaching social changes.

107. A study conducted by ICM and the National Programme of Action to Combat AIDS (PNLCS) highlights the fundamental aspects of this problem with regard not only to AIDS orphans, but to children in general.[31]

D. Family reunification (art. 10)

108. The Constitution provides for the right of every citizen freely to leave and to return to the national territory and even to emigrate (art. 50/I). This right may be restricted only by a judicial decision. Cape Verdean children may leave the country freely, with permission from their parents or the persons who have parental authority over them.

109. Foreigners, including children, who wish to enter the national territory in order to join their parents or another family member residing there are required to have a residence visa. One of the factors looked on favourably in evaluating a residence application is the existence of family ties to nationals or foreigners residing in the territory (art. 47 of Decree-Law No. 6/97).

110. Cape Verdean law prohibits the issue of transit, tourism or residence visas to persons who have not attained majority under their national legislation, without permission from the father, mother or guardian (art. 32 of the Decree-Law of 5 May).

111. The law empowers the authorities to refuse entry to foreigners under 16 years of age when they are not accompanied by the person holding parental authority, when written permission from that person is not presented or when there is no one in the national territory to take charge of the child (art. 32 of the Decree-Law of 5 May).

E. Recovery of maintenance for the child (art. 27, para. 4)

112. The Constitution establishes the duty of parents to assist their children, especially with regard to maintenance, care and education.

113. The right to maintenance, which includes everything that is indispensable for the child's financial support, health, dwelling, clothing, instruction and education,[32] is non-seizable,

imprescriptible, non-transferable and may not be used for compensation,[33] even when the amounts in question have already been fixed. Maintenance for the child may be required from the spouse or ex-spouse, descendants, ascendants, brothers, stepfathers or stepmothers and uncles (art. 4 of the Juvenile Code).

114. When the person required to pay maintenance does not do so voluntarily within 10 days following the payment of his or her salary, the court may order the amount in question to be deducted from the salary by the entity for which the debtor works. If failure to fulfil the maintenance obligation exceeds 60 days and it has not been possible to obtain payment in the above-mentioned form, the maintenance obligation will be the subject of a judicial order and will entail criminal responsibility.

115. The following also constitute crimes:

(a) Concealment or deliberate disposal of assets or income in order to avoid the maintenance obligation;

(b) Repeated failure to provide economic and moral assistance, on the part of parents, guardians or other persons responsible for a child's care;

(c) Desertion of the matrimonial home for more than six months and failure to respect the obligations of parental authority.

116. In order to facilitate the recovery of maintenance, Cape Verde acceded to the multilateral Convention on the Recovery Abroad of Maintenance.[34] An agreement has also been signed with Portugal, one of the countries which receives the most immigrants of Cape Verdean origin, making judicial decisions concerning maintenance immediately applicable in both signatory States.[35]

F. Children deprived of a family environment (art. 20)

117. Cape Verdean legislation stipulates that a minor is placed under Court supervision[36] when the parents:

(a) Are deceased;

(b) Have been divested of parental authority over the child;

(c) Have been prevented from exercising parental authority or have not actually exercised it for six months and have not delegated it to another person;

(d) Are unknown or have disappeared.

A guardian is appointed by the court, preferably from among the child's grandparents or brothers and sisters. If the child is over 12 years old, the court is obliged to hear his or her views concerning the guardian to be appointed. Guardianship is exercised in the best interests of the child and of society.

118. Another form of protection of the child is adoption, which will be analysed in detail in the following section.

119. The study on the traditional system of foster care for orphans mentioned earlier (see para. 107), describes the operation and principles of the system and also highlights the difficulties currently affecting it. The Government is analysing the situation, in particular the problem of placing orphans with large families in such a way as to preserve the child's identity.

120. The Government is aware of the need to implement the entire set of measures which are recommended by this study and which are to be implemented by governmental and non-governmental bodies with a view to strengthening the foster care system.[37] Among these measures, mention should be made of care institutions for children, which are often the solution of last resort after the placement of children in a family-type environment or with foster families has failed. Another measure to be considered is financial support for foster families which take in orphans. Most of these recommendations were endorsed at a meeting between governmental and non-governmental bodies held in April 1996 to discuss the results of the study.[38]

G. Adoption (art. 21)

121. Adoption is permitted as a means of defending the interests of the adoptee and the interests of children in general[39] and becomes effective only through a judicial decision. The court may order an adoption only if it is convinced that adoption entails advantages for the adoptee, is based on legitimate and reasonable motivations and involves no unfair sacrifices for the adopter's children; the adopter must therefore care for the adoptee for a sufficient period of time to establish a tie that will lead to a relationship similar to biological affiliation (art. 1923 of the Civil Code). Adoption provides the adoptee with a tie to his adoptive family which is equal to the tie between biological parents and children. The adoptee loses his former surnames and his new surname consists of the surnames of his adoptive father and mother or one of the two surnames.

122. Under Cape Verdean legislation, when the adoptee's parents are living and have parental authority over the child, their express consent is required for the adoption. Express consent is also required in the following cases (art. 1928 of the Civil Code):

(a) From the child when he or she is more than 12 years old;

(b) From a spouse who is not legally separated;

(c) From a common law spouse;

(d) From an ascendant or collaterally related adult, up to the third degree;

(e) From the person responsible for the adoptee, when the parents are not present.

123. The court may, however, dispense with the consent of the persons who might be entitled to give it:

(a) If they are deprived of their mental faculties;

(b) If there are, or prove to be, difficulties in hearing them;

(c) If they behave in an inappropriate manner with the adoptee, whether they are the parents or one of the persons referred to in subparagraphs (d) and (e) above.

If the adopters have children of more than 12 years of age, the court must seek the children's views concerning the adoption.

H. Periodic review of placement (art. 25)

124. Interim measures of protection for children may be reviewed at any time, in the child's interest (art. 25 of Decree No. 17/83 of 2 April). Furthermore, several provisions of the Civil Code and other instruments governing matters relating to children's legal status, establish the principle that any protective measure or provision ordered by the competent bodies or authorities may be reviewed at any time.

I. Illicit transfer and non-return (art. 11)

125. There have been no reports in Cape Verde of children illicitly transferred or held abroad. The violent or fraudulent removal of a minor under seven years of age from his home or place of residence, with the express complicity of persons responsible for his care, constitutes a crime punishable by two to eight years' imprisonment (art. 342 of the Penal Code). Coercion of a minor to leave the home of his parents or guardians also constitutes a crime punishable by two years' imprisonment (art. 343 of the Penal Code). Concealment, exchange or incitement to immoral behaviour of children are punishable by two to eight years' imprisonment (art. 342 of the Penal Code). In all the above-mentioned cases, the prison term is increased by 16 to 20 years if the official does not indicate the child's place of residence.

J. Abuse and neglect (art. 19)

126. The Juvenile Code stipulates that children may not be subjected to ill-treatment or lack of care, lack of affection or mental cruelty endangering their physical, intellectual or emotional development. The Civil Code (arts. 119, para. 1 (1), and 128) takes the same approach. The ill-treatment of a minor by persons responsible for his guidance and education is punishable by one to five years' imprisonment (Decree-Law No. 4/97 of 28 April). An offence causing bodily harm committed against a minor is punished in accordance with the general terms of the Penal Code, with the same penalty as if the act had been committed against persons having attained the age of majority. Such a crime committed by a person having authority over the child is considered to be an aggravating circumstance.

127. ICM recently established a telephone service, "SOS Children", to report cases of ill-treatment, abuse and neglect of children; the service guarantees confidentiality and anonymity for callers. The use of corporal punishment or degrading treatment[40] is prohibited in schools and public or private institutions and this principle is generally observed in practice.

VI. BASIC HEALTH AND WELFARE

128. Despite the great economic difficulties facing the country, Cape Verde's health system covers the whole of the national territory and devotes a good deal of attention to children, particularly in terms of preventive measures. In 1994, there was a doctor for every 4,270 persons, a nurse for every 1,642 persons and a bed for every 633 persons. Statistical data for 1995 give figures of a doctor for every 3,017 persons and a nurse for every 1,724 persons.[41]

A. Survival and development (art. 6, para. 2)

129. Despite some major constraints, educational, health and legislative measures have been taken to ensure children's survival and development. A large majority of Cape Verdean children live in social, economic and environmental conditions that are bad for their health. Their homes are in fairly poor condition and are overcrowded (housing seven people on average) and this can help spread infectious diseases, especially respiratory diseases. Conditions are more precarious in rural areas.

130. Sanitary conditions are in a critical state. Almost two thirds of homes in urban areas and over 90 per cent of those in rural areas have no sanitary system or latrines. The biggest problem for the population is probably drinking-water supply: only 30 per cent of homes with young children in urban areas and 3 per cent of those in rural areas have any water system and, even when they do have a supply, they are often short of water and families have to fetch water from wells and water tankers. The unreliability of the sanitation system and the shortage of water lead to persistent malnutrition and diarrhoea in children. Some 16.2 per cent of Cape Verdean children suffer from a long-term nutritional deficit (small size for their age), 4.8 per cent from some form of serious malnutrition and 11.4 per cent from moderate malnutrition. The problem of long-term malnutrition is more common in rural areas than in urban centres, where one child in five is affected.

131. Child mortality, which is an important indicator, also reflects children's living conditions. Between 1992 and 1995, the trend was downwards; in 1995, it stood at 53.7 per thousand and, last year, at 45.1 per thousand.[42] There are numerous obstacles to improving access to care and improving the quality and efficiency of health services. Nevertheless, as the indicators show, the health services' contribution to the survival and development of children is uneven.

132. In 1995, a minimum social welfare system was introduced (Decree-Law No. 2/95 of 23 January). It guarantees free care, food aid and a monthly allowance for people considered as vulnerable (Ministerial Orders No. 26/95 of 20 May and No. 29/95 of 12 June).

B. Disabled children (art. 23)

133. It is estimated that 5 to 7 per thousand of the population have a disability. Under article 72 of the Cape Verdean Constitution, they have the right to the special protection of their family and society, which will enable them to receive appropriate education and treatment and, where necessary, social rehabilitation. In the areas of education and health, community rehabilitation programmes and the development of a special integrated educational programme reflect this commitment.

134. Article 37 of the Constitution deals with the rights of disabled persons in the area of education and establishes the goals of special education. The same provision covers the organization of special education and recognizes the need to support families. Financial support is guaranteed by social welfare services, which pay families a monthly allowance of C.V. Esc 500 for each disabled person. For basically financial reasons, this support has been reduced at a time when policies for the disabled have not yet been fully developed.

135. Disabled minors over 14 years old may be entitled to family allowances if they are unable to perform paid work.

C. Health and health services (art. 24)

136. Children's right to health and to access to the relevant services is recognized in the Constitution and the framework law on health and is put into effect by government policies and through the work of the health services.

137. Various measures have been taken in the following areas:

(a) Child vaccination, which has fairly good coverage (over 80 per cent covered by individual vaccinations);

(b) Monitoring of growth: this is carried out effectively, with almost 95 per cent of children being issued with a growth certificate (81 per cent of children can produce their growth certificate). There is cause for some satisfaction with the treatment of diarrhoea, although it is still problematic, as in many other countries. Eighty per cent of children received oral rehydration therapy, and in almost three quarters of cases of diarrhoea, the use of liquids was increased. As for mothers, measures have been taken in the field of antenatal care, which now includes anti-tetanus vaccinations, even in rural areas, and there has been some progress in the use of contraceptive methods;

(c) Programmes to combat the main causes of child mortality: efforts to combat infectious and parasitic diseases and respiratory infections have played a leading role in reducing mortality. Mortality caused by infectious and parasitic diseases among children under five fell from 5.4 per thousand in 1992 to 3.9 per thousand in 1995; in the same age group, mortality caused by respiratory infections fell from 1.6 per thousand in 1992 to 1.3 per thousand in 1995;[43]

(d) Health education: the support of the National Centre for Health Development is one of the most important contributions to the promotion of children's health. However, it should be stressed that, until the serious problems of water supply and environmental sanitation (referred to above) have been solved, the situation will remain problematic;

(e) Literacy education for women (26,189 in almost 17 years), which has helped improve health conditions insofar as mothers are more likely to understand the health care recommended for their children.

138. A 1994 study showed that around 42 per cent of children under age five had consulted a health worker over a period of three months, a figure that rises to 55.7 per cent for children under

one year of age.[44] The branches of the mother and childcare/family planning programme are undoubtedly responsible for the best nationwide medical coverage for the under-fives. It will be recalled that this is the programme that was awarded the UNICEF "Children and their rights" prize in 1996. The study showed that 94.5 per cent of children had a certificate from the programme.

139. In the context of maternal and child welfare (MCW) services and action by other organizations, the problem of malnutrition is the fundamental concern. Serious malnutrition is estimated at 4.8 per cent and moderate malnutrition at 11.4 per cent for children under five;[45] with that in mind, attempts are being made to rectify the situation, which is jeopardizing children's health and development. Children's weight is checked and guidance is permanently available to mothers.

140. School-age children benefit from a school meals programme that guarantees them a hot meal and promotes good eating habits. In 1996, 87,423 primary-school pupils benefited from the programme.[46]

141. As malnourished children often suffer from diarrhoea, quick and effective oral rehydration treatment has been made available. One very positive development is that over half of the children under the age of five who had diarrhoea in 1994 took Oralite.[47]

142. Nonetheless, one of the decisive factors in children's health is the lack of drinking water. Despite all efforts, only 52 per cent of the population had access to drinking water in 1992,[48] although this percentage rose to 72 per cent in 1996.[49]

143. Information on children's health, hygiene and food issues is disseminated, with a few exceptions, through public information services and specific campaigns, with the support of the National Centre for Health Development. Information for adults on issues such as prevention in general and family planning is provided by the *Alfa* newspaper (8,000 copies in 1996) and the "Education for family life" programme. These educational efforts help to counter the negative influence of traditional practices, although the latter do not seem to carry as much weight in Cape Verde as they do in other African countries.

144. Given the great difficulties facing the country, a large number of the children's health services benefit from international support, including institutional support, training, research and help in kind. Among the organizations from the United Nations system involved are the World Health Organization (WHO), the World Food Programme (WFP) and UNICEF.

D. Social security and childcare services and facilities (arts. 26 and 18, para. 3)

145. All employees, whether they are civil servants or State officials or working for someone else, are entitled to a family allowance. The allowance is paid for each child under age 14, up to a maximum of four children per family. Employees registered with the social security system are also entitled to an allowance if they are responsible for children under the age of 14 or disabled persons. Social security also pays a "nursing allowance" for every infant and the insured person's minor children are entitled to medical assistance and medicines.

146. There are difficulties in respecting the principle that the State is responsible for ensuring that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. There are severe limitations with regard to institutions providing care for children under age six; there are insufficient crèches and kindergartens. The situation for children over age six is different, as primary-school coverage is practically universal.

E. Standard of living (art. 27, paras. 1-3)

147. The principles established in article 27, paragraphs 1 to 3, of the Convention are enshrined in the Constitution, the Civil Code, legislation on minors and the other international conventions signed by Cape Verde.[50] The family is considered as the fundamental unit and basis of the whole of society and the State has to protect it and establish the conditions for it to exercise its social function and for each of its members to find personal fulfilment (art. 84 of the Constitution). The Constitution also establishes that children may not be separated from their parents except in cases where it is necessary in order to protect the child's development and provide assistance to minors. Finally, the Constitution establishes the State's responsibility for creating the conditions necessary for the integral development of children's physical and intellectual capacities and for special care in cases of illness, abandonment or lack of affection.

F. Cooperation with public and private national organizations

148. As has already been mentioned, cooperation with Cape Verde's various foreign partners is a key aspect of action to protect and defend children. Among the public organizations benefiting from this cooperation are the mother and childcare/family planning programme and the Cape Verdean Juvenile Institute, which receive much of the assistance, although other welfare, health and education bodies also benefit from it. Among the private organizations, the role of Caritas Cape Verde, the Cape Verdean Red Cross, the Cape Verdean Women's Organization, the Associaçao de Apoio a Auto-Promoçao da Mulher no Desenvolvimento (MORABI) and the Associação Caboverdiana para a Protecção da Familia (VerdeFam) should be highlighted.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

149. The Cape Verdean Constitution (art. 49) recognizes everyone's freedom to learn, to receive an education and to teach and guarantees the right to attend school. The inclusion of these freedoms and rights in the Constitution is the logical corollary to the decisions already embodied in ordinary legislation, especially in Act No. 103/III/90 of 29 December, which defines how the educational system is organized and run. The Act makes primary education compulsory, establishes its objectives and organizational structure and stipulates that the State, together with families, must bear the costs of compulsory education.

150. Now that these principles have been established, genuine efforts to put them into practice should be stressed. These efforts are in the country's tradition of attaching particular importance to educational matters, despite some major constraints. There has been considerable investment

in the education sector: in 1990, public spending reached 4.1 per cent of gross domestic product (GDP), or 19.9 per cent of total public spending. In 1994, educational spending was 10.17 per cent of the overall investment budget. In the 1997 State budget, considerable resources were again allocated to education.[51]

151. In pre-school education, coverage for the age group between the ages of four and five was 56 per cent in 1994. The pre-school network is made up of kindergartens (rural kindergartens, pre-school groups, social centres and council-owned kindergartens), playschools (run by the Cape Verdean Solidarity Institute (ICS), the Cape Verdean Red Cross and the SOS Children's Village in Santa Catarina) and local kindergartens that are either privately owned or run by cooperatives. In 1994, 263 kindergartens accommodated 13,664 children.

152. The main constraints observed in pre-school education are poor human resources skills, the absence of supervisory bodies, the lack of an organized physical network, mediocre teaching, inefficient services and the fact that the State takes little responsibility for this subsystem.[52]

153. The figures for coverage of primary education are as follows: in 1994, for a cohort of 81,998 pupils, the gross school enrolment rate was 139.7 per cent and the net rate 95.5 per cent.[53] In 1996/97, the total number of pupils enrolled in primary education was 22,715 and the gross and net enrolment rates were 32.9 per cent and 29.6 per cent, respectively.

154. The percentage of children repeating a year (19 per cent) in primary education in 1990 is of some concern: indeed, only 51 per cent of pupils attending primary school complete this stage of their education. In 1994, the repeat rate fell to 15.7 per cent.[54]

155. Among the major investments in primary education, attention is drawn to those aimed at reorganizing the system to ensure, among other things, that schooling lasts for six years instead of four and those designed to offer social support.

156. In 1993, the 77,446 primary school pupils from all over the country had a hot meal at school and 25,279 were given school materials. This support and, more particularly, that related to the school canteen programme are the main elements in efforts to lower the drop-out rate, which in 1994 was only 3.3 per cent for girls and 4 per cent for boys.

157. In secondary education, the scenario is different. Only 23 per cent of pupils who complete their primary education go on to secondary education. Education is fee-paying and even though the registration fees are not very high (they rose in 1997 and the Government issued various pieces of legislation on the subject), access to it is still relatively limited. Despite the financial support (in the form of transport allowances and exemption from registration fees) given to the neediest pupils, most of whom are found among the poorest children from rural areas, these are precisely the children who are left out of the system. In 1994, for example, only 12,679 pupils were attending secondary schools. The figures for secondary-school pupils repeating a year are high (29.6 per cent in 1992).[55]

158. In some secondary schools, there are academic and career guidance offices trying to help young people make their choices. Although they are important, these offices find it very difficult to do their job, largely because of a shortage of staff.

159. Although higher education has no formal structure in Cape Verde as yet, post-secondary studies are being developed; access is limited by the shortage of places.

160. There is a scholarship programme to try to alleviate the financial difficulties of the most needy students trying for a place in one of the four higher-education institutions, which are: the Higher Education Institute, the Management and Marketing Institute, the Higher Engineering and Marine Science Studies Institute, and the Agrarian Research and Development Institute.

161. To make up for the limitations in intermediate and higher education, Cape Verde looks to foreign institutions, which every year train students in various academic fields. For this purpose, there is an important programme for awarding annual scholarships on a competitive basis to hundreds of the most deserving young people. In 1994, 1,634 holders of scholarships under cooperation agreements went to study abroad.[56] In 1995, 258 more students received scholarships. In order to boost the scholarship programme, efforts are being made to introduce some important changes that will guarantee the funding for educating new scholars.[57] In this way, an attempt is being made to become at least relatively independent of international cooperation funding and, to some extent, of Treasury funding.

162. A system of loans at preferential rates underwritten by the State has been set up. The loans are paid back at the end of the course, beginning a year after its completion.

163. These measures are a radical change from the policy followed until now, under which no money had to be paid back. Although the legislation is intended to benefit less well-off families, there are fears that observing this principle in practice may prove difficult. In any case, the legislation is due for review in two years' time.

164. The system envisages education abroad at the intermediate, higher and postgraduate levels, with intermediate and post-secondary education in Cape Verde.

B. Aims of education (art. 25)

165. The Framework Act on Education establishes the aims of education on the basis of a modern view of education. Efforts are being made at the various educational levels to cultivate moral values, solidarity, tolerance and respect for others. At the same time, efforts are being made to promote the national culture and develop the qualities in pupils that will allow them to become active members of society.

166. The various curricula and teaching materials, particularly in the framework of the reorganization of the education system, promote these ideas on a daily basis both in the classroom and in teacher training.

167. Since Cape Verde is culturally and physically a mixed-race society and there is no gender-based inequality in access to school, it is easier to develop integration policies and respect for different cultures, as advocated by the education system.

168. The environmental balance is so delicate that environmental concerns have to be borne in mind constantly, as reflected in a special programme that is part of the reorganization under way.

169. The importance of private education is recognized by the Constitution (art. 75). The Framework Act on Education outlines its main features. Private education is seen as complementary to State-run education and those who advocate it are encouraged to participate at the various educational levels. The implementing decree defines the conditions for establishing, authorizing and operating private schools and specifies the conditions for granting State aid.

C. Leisure, recreation and cultural activities (art. 31)

170. Children enjoy the right to recreation and cultural activities, including in school: the activities are integrated in courses, but are generally limited for lack of means. Schools also encourage participation in healthy leisure activities, such as the School Games which are held during the holidays and are open to all young people in the country. Children who do not go to school find it more difficult, but organize their leisure through sports and cultural organizations. The public and private media and State cultural departments organize many of these youth activities.

171. Despite the large number of young people, getting them to participate in healthy leisure activities continues to be one of the major challenges facing Cape Verdean society. There is a shortage of cultural and leisure centres throughout the country. Those which do exist, such as theatres, libraries, cinemas, museums, cultural centres, parks and art galleries, do not really meet people's needs. There is no national library, although building work has begun on one with Chinese assistance. The national archives sometimes act as a national library. The Development Documentation and Information Centre does important work on contemporary documents. There are some town libraries and there is a plan for travelling libraries to be run by the Institute of Culture and the Department for Extracurricular Activities. Generally speaking, libraries tend to be used by primary and secondary school pupils as a place to study rather than as a place for reading or cultural enrichment.

172. The only museums at the moment are the telecommunications museum in Mindelo, the "embryonic" museum at the National Crafts Centre and the first ethnographic museum in the country, which was opened in Praia by the Government in 1997 and which already has a collection of some 600 pieces. The Ministry of Education, Science and Culture is responsible for several projects now under way to set up museums and cultural centres.

173. The few theatres and cinemas that exist have poor sound and picture quality, and so entertainment is staged in improvised locales.

174. There are also not many parks and green spaces in towns, though the "Fifth of July" park in Praia is worth mentioning. In the 1970s and 1980s, multifunctional sports centres were built to stage not only sports, but also popular cultural activities.

175. As has already been mentioned, bilateral and multilateral cooperation is very important. The great effort being made to educate Cape Verdean young people and to reorganize the educational system would not be possible without the partnership of friendly countries and cooperation institutions. The countries include Portugal, Brazil, Switzerland, Germany, the Netherlands, the countries of the European Union, Cuba and China. The United Nations Educational, Scientific and Cultural Organization (UNESCO), the Calouste Gulbenkian

Foundation, the World Bank and the African Development Bank are the main cooperation institutions involved in the process of establishing a more modern and effective education system so that children's rights can be recognized and fully exercised effectively in this field.

VIII. SPECIAL PROTECTION MEASURES (arts. 22 and 38)

176. Given its geographical location and natural economic disadvantages, Cape Verde is not sought after by refugees as a host country. Article 36 of the Constitution nevertheless guarantees the right of asylum to aliens or stateless persons persecuted for political reasons or seriously threatened with persecution on account of their activities in support of national liberation, democracy or respect for human rights.

177. Cape Verde has never had any armed conflicts in its national territory.

A. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

178. As pointed out above, young people must be over age 16 to be considered capable of infringing criminal law. Minors under age 16 who commit any act defined in criminal law as a crime are subject to the assistance, educational or corrective measures already mentioned.

179. The prohibition of the retroactive application of criminal law is a fundamental principle of the Cape Verdean legal system (art. 30 of the Constitution). It is also prohibited by the Constitution to apply penalties or security measures that are not expressly provided for in an earlier law (art. 30. para. 3). In matters of criminal procedure, the principle of the presumption of innocence still applies (art. 33, para. 1).

180. Defendants are not obliged to make statements on the acts of which they are accused and have the right to be assisted at all stages of the proceedings by defence counsel. If, at the beginning of the adversary stage of examination proceedings, the defendant has not appointed a lawyer, the court must appoint one. If defendants receiving assistance cannot afford to pay the lawyers' fees, these will be paid by the Legal Aid and Assistance Institute (IPAJ), a public-interest body representing lawyers and other judicial officials that offers free legal aid to the poor. This option is available only to minors or their legal representatives. Defendants who do not understand Portuguese receive the assistance of an interpreter.

181. For sentences handed down in first instance, there is always the possibility of an appeal to the Supreme Court of Justice.

2. Children deprived of their liberty (art. 37 (b) – (d))

182. Under article 28 of the Constitution, no one may be deprived, either partially or completely, of their liberty unless they have been convicted by a court of law. Every person detained or imprisoned without being found guilty must be brought within 48 hours before the competent judge, who explains to him in clear terms the reasons for his detention or imprisonment, informs him of his rights and duties, questions him in the presence of a defence

counsel freely chosen by him, gives him the opportunity to defend himself and takes a decision, giving reasons for upholding or maintaining his imprisonment (art. 29 of the Constitution). A detainee's family must be notified immediately of his detention or imprisonment and of where he is being held.

183. Minors sentenced to imprisonment are placed in ordinary prisons, but they have to stay in suitable cells that separate them from the other prisoners and they receive more favourable treatment. As has already been mentioned, it is not always possible to ensure that minors are separated from the rest of the prisoners because of space problems in national prisons.

3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))

184. Article 26 of the Constitution recognizes the inviolability of human life and prohibits torture, the imposition and execution of custodial sentences or measures or cruel, degrading or inhuman treatment, and the death penalty. Life imprisonment and imprisonment or other custodial measures for an unlimited or indefinite period are also expressly prohibited by the Constitution. Courts may not sentence minors to more than eight years' imprisonment. All these rules are rigorously adhered to by the police, courts and the public prosecutor's office throughout the national territory.

B. Children in situations of exploitation, including physical and psychological recovery and social reintegration (art. 39)

1. Economic exploitation of children, including child labour

185. Children of compulsory school age are expressly forbidden from working by the Constitution. From the age of 14, minors may enter into an employment contract, but any contract they sign can be invalidated at the request of their parents or legal representatives if the latter did not give their consent.

186. The normal working hours for minors may not exceed 38 hours a week and 7 hours a day, unless the tasks performed involve simply being present or the work is intermittent or exclusively devoted to the minor's training. In these circumstances, the working hours may be the normal ones, that is, 44 hours a week and 8 hours a day. Night work is prohibited for those younger than 16; minors over the age of 16 are allowed to work at night only when it is essential for their vocational training. Overtime is permitted only in cases of force majeure and when the minor is over age 16 and may not exceed 2 hours a day and 30 hours a year. The wage paid to minors for their work should be set according to the constitutional principle whereby wages are proportional to the quantity and quality of the work.

2. Drug abuse

187. In December 1989, Cape Verde ratified the 1961 Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances. Drug use is prohibited and punishable by up to three months' imprisonment (Act No. 78/IV/93 of 29 November). However, if the user is a

minor and not a repeat offender and undertakes not to use drugs any more, he or she may be spared punishment. The sentence can also be suspended if the offender is a drug addict and agrees to undergo treatment or spend some time in an appropriate institution.

188. Drug-trafficking is punishable by a prison sentence of up to 15 years. The applicable sentence is always aggravated when substances and preparations are delivered to or intended for minors. The potential sentence for incitement to use narcotics or psychotropic substances is even more severe when the acts committed harm a minor.

189. Action to combat drugs is carried out basically by the judicial police, which is now in the process of being reorganized. An inter-ministerial commission, the Commission to Coordinate Action against Drugs, coordinates the action of the various State departments. The Commission comes under the Minister of Justice and Internal Administration, who, as a member of the Government, coordinates anti-drug activities. The Commission has a multidisciplinary and cross-sectoral membership, including some of the services involved in action to combat drugs, notably the services of the judiciary, the public prosecutor's office, the judicial police, the police force, the coastguard (which is a branch of the armed forces) and the government departments responsible for justice, health, education, youth and foreign affairs. The Commission may yet include seven more members - the number of non-governmental organizations (NGOs) - in its deliberative body. It has been active since 1996 and is responsible for coordinating all anti-drug activities, essentially in the areas of prevention and the treatment and rehabilitation of drug addicts. It is also responsible for preparing the national programme of action against drugs, which is now in its final drafting stage.

190. It will be noted that the instruments used to prevent and combat the use of psychotropic substances have not yet had the desired effect, as the main bodies to prevent and combat drug use have only recently been set up. The judicial police, for instance, was established in 1993 and began its work at the end of 1994; its services have not been introduced in the various parts of the territory where its presence and action are needed. The above-mentioned Commission was set up in 1995 and began its work only in 1996. The two institutions are still in the process of being established and have only limited material, technical, human and financial resources. Nevertheless, these bodies have performed valuable work so far and have achieved fairly positive results.

191. The Government is aware of the situation in the country with regard to drug-trafficking and drug use; the situation is not yet alarming but it is complex and requires closer and constant attention from the authorities and society in general. The Government is working to improve the ability of the preventive and anti-drug bodies to take action by giving them the go-ahead to act independently and by making them financially independent. The Government is further committed to developing mechanisms to coordinate all the services working, directly or indirectly, in the sector. The work of town councils and various organizations of civil society and the willingness they have shown to cooperate in combating this evil should be stressed.

3. Sexual exploitation and sexual abuse (art. 34)

192. Criminal law (art. 405 of the Civil Code) provides for one to two years' imprisonment for parents who, in order to satisfy the indecent desires of another person, incite, encourage or

facilitate the prostitution or corruption of children. If the crime is committed by some other person who is legally responsible for the child, the prison sentence is from six months to two years and, if it is committed by anyone else, the applicable penalty is three months (art. 406 of the Civil Code).

193. The sexual abuse of minors under age 16 is punishable by two years' imprisonment. However, if the crime is one of rape, that is, one involving penetration without the girl's consent, the applicable penalty is from two to eight years and from eight to twelve years if the victim is less than 12 years old. It can be seen that sexual abuse of girls is more severely punished than that of boys. This situation will be rectified in the new Penal Code, which is expected to be adopted in 1999.

194. Timid laws, insecurity in society, the weakening of family ties and the abandonment of children all serve to encourage sexual exploitation, especially in urban centres. There are no statistical data on the sexual abuse of minors, but cases of the sexual abuse of children are reported every day. All the cases reported are dealt with satisfactorily by the judicial bodies.

4. Other forms of exploitation

195. In addition to what has already been said, it should be stressed that, in the fight against the economic and sexual exploitation of children, the Constitution recognizes the right of children to the special protection of the family, society and the State and prohibits any possible legalization of practices that might constitute a form of the exploitation of children. The Government is aware of its obligation in this area and has incorporated a number of policies and political and legislative measures designed to prevent and curb the exploitation of children in the outlines of its plan for 1997-2000 and in its programme.

5. Sale, trafficking and abduction

196. Abduction is punishable under Cape Verdean criminal law, but in an unclear and unsatisfactory way (arts. 395-399 of the Penal Code). There is no penal provision specifically on the sale or trafficking of minors, although some provisions of the Penal Code (arts. 342-344) could be applied to certain kinds of acts similar to the sale or trafficking of children. This gap in the legislation is due to the fact that the Penal Code in force is over a century old. The Government is aware of the need to adopt a new Penal Code and requested that a draft be prepared; this draft is in the final stages of preparation and discussion. When the new code is adopted, acts that are inconsistent with the rights of children will be appropriately dealt with and punished.

6. Children belonging to a minority or an indigenous group

197. Given the homogeneity of the population, there are no minority ethnic groups in Cape Verde.

IX. CONCLUSIONS

198. Now that this report has been completed on the situation in Cape Verde with regard to the observance of the provisions of the Convention on the Rights of the Child, it is necessary to sum up the conclusions on what the Government needs to do in future to fill the gaps or rectify the shortcomings that still exist. One thing that is certain is that respect for the rights, especially the economic, social and cultural rights, of citizens in general and children in particular is a challenge and omnipresent goal to be pursued by States as they seek to advance people's welfare and the promotion and defence of human dignity and unimpeded individual fulfilment. In short, it is a question of promoting and defending development, which is bound to include the sphere of human development and which should be built on the solid foundation of today's children, who are the men and women of tomorrow, in each individual society and in the globalized world of the twenty-first century.

199. The following are the most important conclusions:

(1) It is clear from a reading of this report that Cape Verde has made significant progress in the promotion and protection of children's rights, despite the material, technical, human and financial difficulties which it has always faced and which are aggravated by natural adversity and permanent drought.

(2) In fact, there have been positive developments throughout Cape Verde's history since independence, with appreciable results in terms of the promotion and protection of children's rights and the right to development, as a result of the formulation and implementation of relatively consistent government policies.

(3) It has been shown that real progress has been made in the legislation concerning children, which incorporates the principles established in the Convention. It should be emphasized that Cape Verdean legislation anticipated some proposals that were later embodied in the Convention. However, it is still necessary to give effect to certain principles by establishing appropriate legal mechanisms, especially with regard to the establishment of institutions to support and rehabilitate juvenile offenders and minors suffering from diseases or impairments.

(4) Similarly, a number of areas need to be regulated so that full use can be made of the mechanisms and institutions that have been set up. This is true, for instance, of the protection, assistance and education measures provided for in the legislation in force.

(5) There is also a need to move forward as quickly as possible with the reform of various legal texts, including the Code of Civil Procedure, the Penal Code and the Labour Code, as well as legislation with important consequences for the legal status and situation of children, such as the laws prohibiting minors from engaging in certain activities, those regulating access by disabled persons to certain public services and goods and those setting the conditions for attendance at artistic and cultural shows and activities.

(6) Legislative and administrative measures need to be adopted to implement the National Declaration on Policy towards Children and Young People so that it has the desired effect.

(7) Despite the progress made, there are still some major problems in the situation of children that can be overcome only through the continued efforts of the Government, civil society and national and international development partners, mainly by taking the following measures:

(a) Create the conditions in which regular reviews of the situation with regard to children's rights can be carried out to ensure that aid for government development policies and choices is suited to the current situation;

(b) Create the material, technical and, above all, human and financial conditions for the formulation, execution, evaluation and monitoring of government development policies in general and those targeting children in particular;

(c) Introduce and consolidate mechanisms for coordinating sectoral policies which are directly or indirectly reflected in the status and situation of children;

(d) Continue promoting and taking action in cooperation with partners at home, particularly families, schools and NGOs, and abroad, with the aim of complementing efforts to promote and protect children's rights;

(e) Involve the media in providing more regular and suitable coverage of the question of the promotion and protection of children's rights, which will require better professional training and greater adaptability in this area;

(f) Improve the capacity of the Cape Verdean Juvenile Institute to act by updating its internal statutes and rules and adapting them to the current situation and by increasing its material, technical, human and financial resources.

(8) There is a need to analyse, or analyse in greater depth, or evaluate certain social phenomena in order better to promote and defend children's rights, especially with regard to violence in the home and children who are abandoned or ill-treated by those responsible for them.

(9) A national council on policy for children and young people must be set up to assess and monitor overall policy for these population sectors.

(10) The following measures must be taken urgently:

(a) Harmonize and update legislation on the administration of juvenile justice in general;

(b) In revising the part of Penal Code that deals with crimes against minors, adapt the accusation and punishment for certain types of crime, such as torture, prostitution, abduction, arms trafficking and ill-treatment and, at the same time, increase sentences for cases where children are used in drug-related activities;

(c) Adopt a special pre-trial detention regime for young offenders;

(d) Review social security legislation to make it more favourable to disabled minors who are with their families.

(11) The trend in policies in the areas of children's health and welfare is on the whole positive. The main shortcomings are related to difficulties of a general nature. Health services are effective in many areas and their efforts and greater capacity should be recognized. However, in settings where living conditions are quite precarious, the health services are faced with a difficult situation in that they must first set priorities if they are to optimize their efficiency. The work mentioned in paragraphs 136 to 144 above should be highlighted. It is also necessary to encourage the health services to expand their activities by identifying the areas in which they are stretched, with the aim of improving the effectiveness of their response.

(12) In education, it is necessary to continue to develop and perfect the policies and policy measures being implemented in order to raise standards in:

(a) Women's literacy;

(b) The schooling and education of needy children, especially those from rural backgrounds;

(c) The involvement of children and young people in cultural activities during their leisure time.

(13) Conditions must be created to enable society to participate in its own right in the process of promoting and protecting children's rights; society needs to be kept informed at every step of changes in the situation so that it can fulfil its responsibilities in a critical and responsible way. To this end, practical measures will be taken, including measures to improve the dissemination of studies and documents and to make better use of education workers. Priority should be given to action by local councils in order to encourage them to play a significant role in the preparation and implementation of the overall policy for children and young people.

Notes

[1] World Bank, Poverty in Cape Verde. A Summary Assessment and a Strategy for its Alleviation, June 1994.

[2] Ibid.

[3] NLTPS project, National Long-Term Perspective Studies, Cape Verde, 2000.

[4] UNDP, Development cooperation, Cape Verde, 1995 Report, p. 21.

[5] NLTPS project, op. cit.

[6] UNDP, op. cit.

[7] Report on the Third National Development Plan, 1992 -1993.

[8] Ministry of Health and Social Welfare and UNICEF, Health of children under five in Cape Verde.

[9] NLTPS project, op. cit.

[10] Ministry of Economic Coordination, Mid-term Evaluation of the Third National Development Plan, 1992-1993: Health and Social Welfare.

[11] Health and Children.

[12] Government of Cape Verde and UNICEF, Children and Women in Cape Verde. Analysis of the Situation, Praia, October 1993.

[13] Ministry of Health and UNICEF, op. cit.

[14] Government of Cape Verde and UNICEF, op. cit.

[15] Ministry of Health and Social Welfare, Health Diagnosis, Praia, 1997.

[16] NLTPS project, op. cit.

[17] Office of the Deputy Minister, Poverty Reduction Programme, Contributions by the Departments of Health, Nutrition and Education, 1997. UNDP, op. cit., p. 12.

[18] Cape Verdean Juvenile Institute and UNICEF, Legal protection of children, Praia, 1994.

[19] Ibid.

[20] Ibid.

[21] At the time of writing, Decree-Law No. 12-C/97 of 30 June amending the Family Code has been published.

[22] ICM, "Interview with the President", 21 February 1997.

[23] ICM, "Statistical Data, 1996".

[24] A minor is any person who has not yet reached the age of 18 years. The Juvenile Code entered into force on 1 June 1983.

[25] In 1990, the courts heard 48 cases involving minors under age 16; in 1991, there were 24 such cases.

[26] The Juvenile Protection Committees are collective ICM bodies at the municipal level (art. 17 of the statutes approved by Decree-Law No. 90/82 of 25 September).

[27] The law provides that, if the Juvenile Protection Committees are not operational, their work is assigned to the courts (art. 5 of Decree-Law No. 89/82 of 25 September).

[28] See Ministry of Health and Social Welfare press release of 29 October 1991 (Official Gazette No. 45) and statutory decree No. 4/93 of 8 March (Official Gazette No. 7 of 8 March). According to the decree, vulnerable people include persons on welfare, unemployed persons, destitute persons and FAIRNO workers.

[29] Decree-Law No. 47678 of 5 May 1967 covering all of Cape Verde as subsidiary legislation through Order No. 23101 of 28 December 1967 and brought into force by Decree No. 49/77 of 4 May.

[30] Decree-Law No. 87-A/76 of 29 September. This Law has been superseded by articles 1734-1737 of the Civil Code.

[31] ICM/PNLCS, *Study of the traditional system of foster care for orphans in Cape Verde*, Praia, 1996.

[32] Article 80 of the Family Code (repealed). See article 1943, paragraph 1, of the new Family Code.

[33] Article 87 of the Family Code (repealed). See Article 1943, paragraph 2, of the new Code.

[34] Decree-Law No. 77/85 of 27 July 1985, approving Cape Verde's accession to the Multilateral Convention on the Recovery Abroad of Maintenance.

[35] Judicial agreement between Portugal and Cape Verde, decision 12/76 of 23 June; Decree No. 86/82 of 18 September; agreement with Portugal on recovery of maintenance; agreement with Cape Verde and Angola, decision No. 29/79.

[36] Articles 90 to 101 of the Family Code (repealed). See article 1871 of the Civil Code.

[37] The study projects 2,000 deaths from AIDS by the year 2000, which will increase the number of orphans.

[38] Conclusions and recommendations of the meeting on the presentation and analysis of the results of the research on the traditional system of foster care for orphans, Praia, April 1996.

[39] Article 69 of the Family Code (repealed),. See article 1920 of the Civil Code.

[40] Article 18 of the Juvenile Code; see also article 182, paragraph 2, of the Civil Code.

[41] UNDP, *Cooperation* ... (see note 4 above), p. 12.

[42] Ministry of Health, *Health* ... (see note 15 above).

[43] Ibid.

[44] Ministry of Health and UNICEF, *Health of Children* ... (see note 8 above).

[45] Ibid.

[46] *Health* ... (see note 15 above).

[47] *Health of Children* ... (see note 8 above).

[48] World Bank, *Poverty* ... (see note 1 above).

[49] NLTPS project, op. cit. (see note 3 above).

[50] Article 23 of the International Covenant on Civil and Political Rights and article 20 of the International Covenant on Economic, Social and Cultural Rights.

[51] Act No. 16/V/96 of 30 December adopting the State budget for 1997.

[52] NLTPS project, *Human Resources Development*, p.12.

[53] Ibid., p. 12.

[54] Ibid., p. 7.

[55] Ibid.

[56] Ibid.

[57] Decree-Laws Nos. 6, 7 and 8/97 of 3 February.